

UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

| | | |
|-------------------------------|---|--------------------------|
| H. RAY LAHR, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | No. CV03-08023-AHM (RZx) |
| |) | |
| |) | |
| NATIONAL TRANSPORTATION |) | |
| SAFETY BOARD, <i>et al.</i> , |) | |
| |) | |
| Defendant. |) | |
| _____ |) | |

**DECLARATION OF SCOTT A. KOCH,
INFORMATION AND PRIVACY COORDINATOR,
CENTRAL INTELLIGENCE AGENCY**

I, SCOTT A. KOCH, hereby declare and say:

1. I am the CIA Information and Privacy Coordinator (Coordinator), and I serve concurrently as Chief of the Public Information Programs Division (PIPD), Information Management Services (IMS), Central Intelligence Agency (CIA). I have held these positions since 9 August 2004. I have served with the United States Government for approximately fifteen years and, in addition to my

current position, I have held other supervisory positions with the CIA in the fields of records management and information review and release.

2. In my capacity as Coordinator, I am responsible for managing the Freedom of Information Act (FOIA), Privacy Act (PA), and Executive Order 12958¹ Mandatory Declassification Review programs in the CIA. This includes, inter alia, directing the search of CIA records systems in response to public requests and the review of records responsive to FOIA and PA requests. These review processes include undertaking any intra-agency and inter-agency coordination and referrals necessary in light of the information found in responsive records. As part of my official duties, I ensure that the administrative processing of FOIA requests, including the search, retrieval, analysis, review, redaction, and release of documents, is accomplished in accordance with the

¹ Executive Order 12958 was amended by Executive Order 13292, effective March 25, 2003. See Exec. Order No. 13292, 68 Fed. Reg. 15315 (Mar. 28, 2003).

law and as efficiently as possible with the personnel and resources available.

3. Through the exercise of my official duties, I am familiar with this civil action and certain allegations made by Plaintiff in his Opposition to Defendant's Motion for Partial Summary Judgment. This declaration is submitted to address the substantive issues raised by Plaintiff in his allegations.

4. I make the following statements based upon my personal knowledge, information made available to me in my official capacity, and conclusions I reached in accordance therewith.

5. In order to respond to many of Plaintiff's allegations, it is necessary to understand how the Management of Officially Released Information (MORI) system works.

6. MORI, as it is known, is the application used by Agency personnel (FOIA case managers, support personnel, and Information Review Officers)

to process and respond to FOIA and other requests from the public. MORI is employed to track the request and the processing thereof within the Agency [i.e., workflow] through the assignment of case numbers to each request (F2004-00078, the Plaintiff's request) and, when responsive documents are located, MORI Document Identification, ("MORI Doc.ID") numbers to those documents.²

7. FOIA case managers in my office employ MORI to task the respective Directorate Information Review Officers ("IROs") to search for and/or review information responsive to requests made by the public. When a directorate--in this case, the Directorate of Intelligence--locates responsive information, the records are put into MORI via a scanning process³ and, at that time, a MORI Doc. ID number is assigned to each document. As the document is reviewed by the originating component and other components (or agencies) which have

² MORI is also a repository of information previously released to members of the public.

equities in the information, new MORI Doc. ID numbers are assigned to each successive version in order to track and document each component's review and release determination.

8. When the review process is complete, the documents are prepared for final disposition, i.e., component review decisions are merged, and the CIA's corporate release determinations are made and set: release in full, release in part, or withheld in full. As the final step in this process, MORI "burns" each document. The burning process creates an image of the document in MORI in its final reviewed state. During the burn of a document, MORI assigns the document a new MORI Doc. ID number.⁴ The numbered burned document image in MORI represents a document that has been completely processed and, if deemed releasable in whole or in

³ Through the use of imaging, scanning, full text search, and data base technologies, MORI automates and expedites the Agency's process of officially releasing information.

⁴ This process is accomplished by category, i.e., documents released in full, released in part or withheld, so that generally the MORI Doc. ID numbers fall sequentially within each release category, but not across categories. If documents are processed for release at

part, is releasable to the public. The final MORI Doc. ID number appears on the face of documents released by CIA to the requester and is often used as a shorthand means of referring to documents in the text of final response letters and declarations.

9. MORI Doc. ID numbers are machine generated and assigned, i.e., they are not manually assigned. MORI Doc. ID numbers are simply a tracking device and convey nothing about the identity, nature or substantive contents of a record.

10. Given time constraints, the FOIA case manager was finalizing the documents involved in the June release at issue in this case at the same time that the *Vaughn* declaration and document index were being completed in another office. The persons preparing the *Vaughn* documents were working with a pre-burn version of the documents and cited the pre-burn MORI numbers on the documents before them.

different times, such as in this case—February, June and August—the MORI Doc. ID numbers will not be sequential within a release category.

The preparation of the *Vaughn* documents usually occurs after my office has finalized the release decisions and provided a final response to the requester (not simultaneously).

11. The CIA first learned that the *Vaughn* documents referred to some of the documents at issue with pre-burn MORI Doc. ID. numbers from Defendant's counsel. To aid Plaintiff and the Court, a chart that linked the MORI numbers cited in the *Vaughn* declaration with those appearing on the face of the documents was released to Plaintiff and was included in the Second Declaration of Terry Buroker. The documents released to the Plaintiff also included the applicable FOIA exemptions on the face of each document,⁵ next to each redaction.

12. Plaintiff contends that there is "a 139 page discrepancy" (Opposition, page 25, line 4 and page 27, lines 14-15) in Defendant's June 20, 2005 *Vaughn* index and a similar

⁵ With respect to records withheld, i.e., denied in full, the document index entries stand alone as no documents are released. The applicable exemptions are cited in each entry.

"discrepancy" between the CIA's production of documents to Plaintiff and its August 16, 2005 Vaughn submission (opposition page 25, lines 6-7 and page 27, lines 15-16). There are no such discrepancies.

13. In February 2005, the CIA released to Plaintiff 52 documents (consisting of approximately 246 pages), of which 27 documents were released in full. The June 2005 Vaughn index addressed only those documents from which information was withheld in the CIA's February and June responses (i.e., 30 documents, consisting of 327 pages). In August 2005, the CIA released in part two additional documents (consisting of 128 pages) which are described in the Second Declaration of Terry Buroker filed in this case, August 15, 2005.

14. I understand that Plaintiff also takes issue with the assignment of MORI Doc. ID numbers to undated, unnumbered pages; to what Plaintiff terms "multiple different records"; and to "the

same record" "spread out in pages with different MORI" Doc. ID numbers.

15. When the CIA conducts a records search, it takes the records as they are exist in the component's record system. Due to the unique nature of the underlying inquiry, much of the responsive material was located in analyst working files. (See June Buroker Declaration, ¶24.) Unlike records from corporate or directorate databases, material of this nature often is not pristine, e.g., documents may not contain official document numbers (assigned by the originator at the time of creation according to an established numbering system), page numbers, or dates. They may be handwritten, written on or otherwise annotated, or electronic mail messages. Nor are such documents necessarily "complete", e.g., such files often contain extracts of documents (sourced and unsourced), books, or other snippets of information.

16. During a records search, one frequently encounters "multiple" records as one, e.g., documents containing attachments such as cover memoranda or notes filed with attachments. In the case of email, a string of messages treated as one document is quite common because an individual responding to an email message often incorporates the original message or multiple messages in his response.

17. As stated above, when information management officers encounter such material during a records search, they copy and scan the information as found, i.e., "as is." The CIA cannot and does not alter the content of records by recompiling documents, either by disassembling or reassembling documents, or inserting so-called "missing" information such as page numbers and dates. To do so would be improper

18. I understand Plaintiff also claims that "at least twice it [CIA] removed pages." (See

Opposition page 27, line 22.) Wherever the CIA redacted information, including entire pages, the CIA clearly marked the redaction on the face of the document, along with the applicable exemption(s).

19. I understand that Plaintiff contends that certain information provided by Boeing has been improperly withheld because it is information which has previously been released publicly. In light of this allegation, a member of my staff reexamined the information attributed to Boeing that was withheld by the CIA under FOIA Exemption (b)(4). The CIA has not withheld the specific information identified by Plaintiff as publicly released.

20. I also understand that Plaintiff objects to any redaction of an individual's job title and job description of a federal employee based on FOIA Exemptions (b)(6) and (7)(C). The CIA re-examined all such redactions. The Agency identified one instance where it inadvertently redacted the words

"Special Agent, FBI" on one page of a 38 page document. Attached and released herewith is the first page of that document, MORI Doc. ID 1176350/1147342, with the information restored. This document and the information withheld is accurately described in the CIA's June Vaughn index (page 49 as filed). Other than that one mistaken redaction, the CIA did not withhold job titles or job descriptions of federal employees under FOIA Exemptions (b)(6) and b(7)(C).

21. Recently, by letter dated September 13, 2005, Plaintiff requested under FOIA "all records created as part of the analysis that continued after the CIA video-animation concerning the explosion of TWA Flight 800 was shown to the public." The response of the CIA to the FOIA request that Plaintiff submitted to the CIA by letter dated October 8, 2003, covers this new request.

22. The following table matches each of the

records that the CIA has withheld in part to the copy of the record filed with the Court. As the table shows, a complete copy of every such record has been filed with the Court:

Table

Copies of Records Withheld in Part, As Filed With the Court

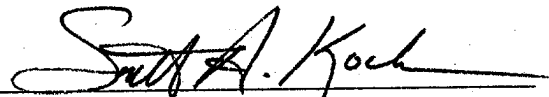
| ID No. Shown on Face of Record | ID No. Given to the Record in Defs.' Document Index (DI) | Page No. of Record in DI (DI to Buroker Decl. Unless Otherwise Noted) | No. of Pages in Record, as Stated in DI | No. of Pages in Copy of Record Filed With the Court | Page Nos. Where Copy of Record Can Be Found in 2 nd Buroker Decl. Ex. A |
|---|---|---|---|---|---|
| 1176341 | 1147307 | 41 | 1 | 1 | 19 |
| 1176342 | 1147315 | 42 | 4 | 4 | 20-23 |
| 1176343 | 1147318 | 43 | 1 | 1 | 24 |
| 1176344 | 1147334 | 44 | 6 | 6 | 25-30 |
| 1176345 | 1147335 | 45 | 14 | 14 | 31-44 |
| 1176347 | 1147336 | 46 | 31 | 31 | 45-75 |
| 1176348 | 1147338 | 47 | 2 | 2 | 76-77 |
| 1176349 | 1147340 | 48 | 41 | 41 | 78-118 |
| 1176350 | 1147342 | 49 | 38 | 38 | 119-56 |
| 1176351 | 1147348 | 50 | 2 | 2 | 157-58 |
| 1176352 | 1147324 | 51 | 2 | 2 | 159-60 |
| 1176353 | 1147339 | 52 | 1 | 1 | 161 |
| 1176354 | 1147341 | 53 | 1 | 1 | 162 |
| 1175601 | 1080902 | 54 | 1 | 1 | 163 |
| 1175603 | 1080903 | 55 | 48 | 48 | 164-211 |
| 1215200 | 1215200 | 60 | 15 | 15 | 212-226 |
| 1215201 | 1215201 | 61 | 4 | 4 | 227-30 |
| 1215202 | 1215202 | 62 | 28 | 28 | 231-58 |

| ID No. Shown on Face of Record | ID No. Given to the Record in Defs.' Document Index (DI) | Page No. of Record in DI (DI to Buroker Decl. Unless Otherwise Noted) | No. of Pages in Record, as Stated in DI | No. of Pages in Copy of Record Filed With the Court | Page Nos. Where Copy of Record Can Be Found in 2 nd Buroker Decl. Ex. A |
|---|---|---|---|---|---|
| 1215016 | 1215016 | 64 | 1 | 1 | 259 |
| 1215013 | 1215013 | 66 | 1 | 1 | 260 |
| 1215014 | 1215014 | 67 | 9 | 9 | 261-69 |
| 1215015 | 1215015 | 68 | 1 | 1 | 270 |
| 1215017 | 1215017 | 69 | 1 | 1 | 271 |
| 1215018 | 1215018 | 70 | 8 | 8 | 272-79 |
| 1232319 | 1232319 | 16 (2 nd Buroker Decl.) | 4 | 4 | 280-83 |
| 1232320 | 1232320 | 17 (2 nd Buroker Decl.) | 124 | 124 | 284-407 |

23. As stated in the June 2005, Buroker Declaration, ¶14 and note 3, "additional documents were identified as a result of review and coordination". In one instance, a responsive record was identified, but retrieval has proven problematic. In the interim, the CIA determined that this record falls under the purview of another agency and the CIA is consulting with that agency regarding how to address this record. Currently, there are seven records in coordination or the subject of consultation with other agencies.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 30th day of September 2005.


Scott A. Koch

Information and Privacy
Coordinator,
Central Intelligence Agency